IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4788 of 2007()

CRMP.1355/2007 of DISTRICT COURT, PATHANAMTHITTA
CRIME NO.360/07 OF PANDALAM POLICE STATION

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PETITIONERS

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1. ANU S.NAIR, AGED 24 YEARS,
   S/O SIVARAMAN NAIR, MULLUPALACKAL VEEDU,
   CHAKKITTAPADI JUNCTION, MULAMPUZHA MURI,
   PANDALAM.

2. RENJITH @ KANNAN, AGED 23 YEARS,
   S/O RAMAKRISHNAN NAIR, MANI BHAVAN,
   MULAMPUZHA MURI, PANDALAM.

3. SURENDRAN, AGED 33 YEARS,
   S/O KOCHUKUNJU, K.S.BHAVAN,
   THOPPINTE THECKETHIL, MANGARAM MURI,
   PANDALAM VILLAGE.

BY ADV. SRI.SALIM V.S.

RESPONDENTS:

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1. THE CIRCLE INSPECTOR OF POLICE,
   PANDALAM, PATHANAMTHITTA DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4788 of 2007

Dated this the 14th day of August 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,3 and 4. Altogether there are five accused persons. Accused 2 has already been arrested. The crux of the allegations against the accused persons is that on the night of 14/6/2007 at about 10.30 p.m, the accused persons, who travelled in a car attempted to rashly overtake a two wheeler in which the de facto complainant was travelling. There was a quarrel. Police patrol party who came that way were informed the incident. The police party tried to settle the disputes. After the police party left, the de facto complainant had gone to a 'thattukada'. There the accused persons allegedly reached and indulged in the culpable overt acts. The de facto complainant was wrongfully restrained assaulted and the gold chain belonging to him was thieved. F.I.R about this incident was lodged only on the next morning. The de facto complainant did not know the names and details of the accused persons. Hence no one is named in the F.I.R. Subsequent investigation revealed the identity of the miscreants to the police. Accused 2 has been arrested. Petitioners are wanted to be arrested. They apprehend imminent arrest.

2. The learned counsel for the petitioners submits that all the allegations are totally false. According to him, the de facto complainant and the accused are all close friends. They together had gone on some picnic on that day. As they were returning, there was a dispute about the gold chain of the de facto complainant which was lost. On account of that quarrel, totally false allegations have been raised against the petitioners now. It is prayed that anticipatory bail may, in these circumstances, be granted to the petitioners.

3. In the light of the contentions raised, the learned Public Prosecutor was requested to take detailed instructions. The learned Public Prosecutor submits that the investigation has revealed that there is no relationship whatsoever between the accused persons and the de facto complainant. Investigation revealed that the de facto complainant was not a friend or relative of the accused persons and the de facto complainant did not even know the names of the accused persons. Arrest and interrogation of the petitioners is absolutely essential. The gold chain which was thieved has not been recovered. A proper investigation must make all efforts to recover the gold chain. The petitioners may not be permitted to arm themselves with an

order of anticipatory bail at this stage, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. Having considered all the relevant circumstances anxiously, I find merit in the opposition of the learned Public Prosecutor. Notwithstanding all claims made by the petitioners, there is nothing tangible to indicate even the probability even remotely of the claims made by the petitioners. I am certainly of the opinion that this is not a fit case where directions under Section 438 Cr.P.C can or ought to be granted. The petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007